

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

TANA SHIVELY, individually and as  
personal representative of the Estate of  
Owen Daniel Shively,

Plaintiff,

vs.

CANYON CREEK MEMORY CARE  
COMMUNITY, LLC,

Defendant.

CV 20-120-BLG-SPW

ORDER

Before the Court is Plaintiff Tana Shively's Motion for Award of Expenses of Depositions, filed February 3, 2022. (Doc. 104). Defendant Canyon Creek Memory Care Community, LLC responded to the motion on February 14, 2022. (Doc. 105). Plaintiff filed a reply on February 15, 2022. (Doc. 110).

Defendant asserts that the Court must dismiss Plaintiff's motion under Local Rule 7.1(d)(1)(A)<sup>1</sup> for failure to file an accompanying brief in support of her motion. Local Rule 7.1(d)(1)(A) states:

A motion, if opposed, must be accompanied by a brief in support filed at the same time as the motion. Briefs in support of a motion must be

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<sup>1</sup> Defendant cites Local Rule 47.2 in their response brief seemingly referring to the Local Criminal Rule of Procedure for briefs. However, the Local Civil Rule of Procedure, 7.1, contains the same requirement that a separate brief in support must be filed when a motion is opposed, and the Court shall rely on this authority.

filed separately from the motion. Failure to timely file a brief will result in denial of the motion, subject to refile in compliance with the rule.

Plaintiff's motion is opposed, and she did not file a separate brief in support of her motion. The language of Local Rule 7.1 requires strict adherence which Plaintiff failed to do. Therefore,

**IT IS HEREBY ORDERED** that Plaintiff's Motion for Award of Expenses (Doc. 104) is **DENIED** without prejudice for Plaintiff to refile in accordance with Local Rule 7.1(d)(1)(A).

DATED this 8<sup>th</sup> day of April, 2022.

  
SUSAN P. WATTERS  
United States District Judge